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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11 DAVID M. CURLEY, SR.,

12 Plaintiff,

13 v.

14 WELLS FARGO & CO., and others,

15 Defendants.
16

Case No. 13-cv-03805 NC

**ORDER CONVERTING MOTION
TO DISMISS INTO MOTION FOR
SUMMARY JUDGMENT**

Re: Dkt. No. 4

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18 Defendants in this mortgage foreclosure action have moved to dismiss for failure to
19 state a claim upon which relief may be granted, and plaintiff opposed the motion. Dkt. Nos.
20 4, 27. Defendants submitted disputed factual evidence not properly considered by the Court
21 on a motion to dismiss. *See* Dkt. No. 8, Ex. D; Dkt. No. 28-1, Ex. F. Therefore, the Court
22 now ORDERS that defendants' Motion to Dismiss is CONVERTED into a motion for
23 summary judgment pursuant to Federal Rule of Civil Procedure 12(d).

24 By December 27, 2013, defendants must file any supplemental materials pertinent to
25 the motion for summary judgment. Plaintiff must file any supplemental materials pertinent
26 to the motion by January 10, 2014.
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1 IT IS SO ORDERED.

2 Date: December 13, 2013

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4 Nathanael M. Cousins
5 United States Magistrate Judge
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